

THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Keltec-Technolab, Inc.,)
Plaintiff,)
v.)
Air Supply Company, et al.,)
Defendants.)
)
CASE NO. 1:05 CV 792
JUDGE DONALD C. NUGENT
JUDGMENT

The above-captioned case came before this Court for a trial by jury. At the conclusion of the trial, the Jury returned unanimous Verdicts for the Plaintiff and against the Defendants Air Supply Company, Michael E. Williams and Allied Separation Technology, Inc. on Plaintiff's claim of fraud.

Plaintiff, Keltec-Technolab, Inc., brought this action against Defendants alleging, fraud, misappropriation of trade secrets, tortious interference with business relations, unfair competition and conversion. Defendants asserted three counterclaims against Plaintiff: (1) for attorneys fees for bad faith assertion of a misappropriation claim under Ohio Rev. Code § 1333.64; (2) for attorneys fees and expenses pursuant to Ohio Rev. Code § 2323.51 for Plaintiff's frivolous conduct in bringing these claim without factual or legal basis; and (3) tortious interference with contractual and business relations.¹

The trial commenced on September 18, 2006. A Jury of twelve was duly impaneled and

Defendants filed a Stipulation of Dismissal of Defendants' Third Cause of Action (ECF #71) indicating that the parties stipulated that Defendants' Third Counterclaim was dismissed with prejudice.

sworn, and opening statements of counsel were made. Plaintiff called the following witnesses: (1) Ed Kaiser; (2) Michael Williams; (3) Linda Blum (written deposition read); and (4) Ed Kaiser, Jr. Court was then adjourned until September 19, 2006 at 8:00 a.m.

The trial continued on September 19, 2006 . Plaintiff called the following witnesses: (4) Ed Kaiser, Jr. Continued; (5) Paul J. Bruno; and (6) Peter Constantino. Plaintiff rested. The defense called the following witness(es): (1) Jeffrey Lynn "Lyndy" Gardner; (2) Roy Greenlees (video deposition); (3) Lane Hollar (written deposition read- portions of it); (4) Lori Blum Williams; (5) Barry Leigher (written deposition read); (6) Wendy Dawn Adams; (7) James Ferguson (written deposition read).

Defendants' motion pursuant to Fed. R. Civ. P. 50 is granted as to Counts 2, 3, 4 and 5 of Plaintiff's Complaint. Count 1 (fraud) remains and Defendants' remaining Counterclaims are for the Court, not the jury. Court was adjourned until September 20, 2006 at 8:00 a.m.

The trial continued on September 20, 2006. The Defense called the following witnesses: (8) Michael Williams; and (9) J. Michael Nesser. Defendants rested. Plaintiff called the following witnesses in rebuttal: (1) Ed Kaiser, Jr. Plaintiff rested. Closing arguments of counsel were made. Following closing arguments, the Court instructed the Jury on the law pursuant to Rule 51 of the Federal Rules of Civil Procedure, and the Jury thereafter retired to deliberate. The Jury, in open court, returned the following unanimous Verdicts in favor of the Plaintiff in the amount of \$190,413.00 and \$0 in punitive damages:

**VERDICT FOR PLAINTIFF
AGAINST DEFENDANTS**

We the jury, being duly impaneled and sworn, find in this case in favor of the Plaintiff Keltec and against the Defendants on Plaintiff's claim of fraud and award compensatory damages in the amount of \$ 190,413.00 (Enter an amount from \$0 to whatever you determine

the evidence requires).

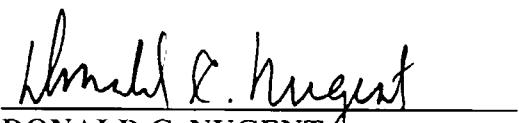
**VERDICT FOR PLAINTIFF
AGAINST DEFENDANTS
PUNITIVE DAMAGES**

We the jury, being duly impaneled and sworn, having entered a verdict in favor of the Plaintiff Keltec and against Defendants on Plaintiff's claim of fraud and awarded compensatory damages, find that Plaintiff is not (enter "is" or "is not") entitled to punitive damages against Defendants. Enter the amount of punitive damages, if any, you find the evidence requires. \$ 0.

The Court read the Verdicts in open court, and thereafter, the Court polled the Jury. Each Juror affirmatively responded to the correctness of the Verdicts. The Court accepted the Verdicts. The Jury was then discharged.

THEREFORE, the Court enters Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure in favor of the Plaintiff Keltec Technolab, Inc. and against the Defendants on Count 1 (Fraud) of Plaintiff's complaint in the amount of \$190,413.00. All costs are to be paid by the Defendants. Given the Jury's Verdicts, Plaintiff's claims were not frivolous or without factual or legal basis, therefore Defendants' second counterclaim is dismissed. If Defendants wish to pursue their remaining "bad faith" counterclaim, Defendants shall file a Motion relevant to that counterclaim by October 2, 2006.

IT IS SO ORDERED.


DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE

DATE: September 27, 2006